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The secular-religious cleavage, solidarity and the Italian party system

FIRST DRAFT

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The paper is divided in five SECTIONS.

1. *The origin of the secular-religious cleavage from the Italian unitary state to the end of “Prima Repubblica”*

We will first try to set out the historical and genetic framework which characterized the evolution of the Italian political system, from the birth of the unitary Italian state to the end of the so-called First Republic. We will analyze the different phases about the relationship between the Catholic Church and the Italian political system, paying particular attention to the dynamics of the Italian party system until the eve of so-called Second Republic. From this analysis emerges as the unity of Catholics in politics, despite being a constant issue of the last century, has never been the only strategic option available to the Catholic Church to defend its values and interests.

2. *Theoretical framework. The dimension of the solidarity concept in the main political traditions*

In this section, we will first try to set out the problems in the relationship between the individual and the society, particularly focusing on the problems of solidarity in modern societies. Besides, we will consider the problems of social citizenship within the Welfare State, in the light of the complexities of contemporary societies, in order to single out the main arguments justifying solidarity-based public policies, with particular reference to social policies. Finally, taking account of the present communitarian criticisms to the modern view of society, we will try to sketch a model of ‘*selective solidarity*’, able to integrate the traditional notions of justice and solidarity.

3. *The roots of the solidarity concept in the Italian welfare system*

The focus will be on the following themes:

- a) the evolution of social policies in Italy, within the framework of the solidarity model present in the Italian welfare state system.
- b) social policies will be analysed through the evolution of the welfare system beginning from the introduction of the Constitution of the Italian Republic.

4. Catholic Church's influence and pressure on the party system after the collapse of Italian political system (the era of "Seconda Repubblica")

In this section we will analyze the changes in the relations between the Catholic Church and the new Italian political parties, after the collapse of the so-called "Prima Repubblica". The end of the political unity of Catholics led the Catholic hierarchies to declare a position of political neutrality. Consequently, there is a greater articulation in the pressure on public opinion to support values such as family, education and life (the beginning and the end). And this involves a change of strategy from the logic of *direct action* towards a single party, to the logic of *indirect action* towards the public opinion with Catholic values orientation. For these reasons, in Italy is extremely difficult to affirm public policies inspired to liberal values.

5. The "good life" between individual-public choice and 'lobbies'

The section will analyze the different positions of the political parties on the controversy over Eluana Englaro (2009) and the debate on living wills and their decisions in the parliamentary arena. It is interesting to note a certain divergence between public opinion and political decisions on the issue of living wills. Finally, the case study will pose the question as to whether or not an ethical fracture has been created between political parties and coalitions, which are competing among themselves for support.

1. The origin of the secular-religious cleavage from the Italian unitary state to the end of “Prima Repubblica”

As we know, Stein Rokkan (1970) connects the formation of party systems in Western Europe, through an evolutionary perspective and over time, to four fundamental cleavages, which were shaped during state and nation building processes, and during the rise of capitalism in Western European countries. On the one hand, during the processes of state/nation building, the construction of centralized agencies for the standardization and unification of state administrative structures was leading to the emergence of a cultural national identity, which was refused by many classes and social groups perceiving the experience of nation state as a threat. And these phenomena, depending on the specific historical conditions, found matching lines in the differentiation of ethnic, linguistic or religious conflicts. On the other hand, the Industrial Revolution saw the birth of a new social class, the industrial capitalist bourgeoisie, which was at the origin of a conflict with the interests of peasants and farmers, mainly due to the opposition between the new urban settlements, where the firms were born, and the rural areas, where the landed aristocracy had large estates, combined with a conflict with the interests of working classes, due to the opposition between employers and workers.

1.1. The evolution of the Italian case

In that general framework, within an European perspective, the Italian case presents its own historical peculiarity for the role by Catholic Church, starting from the so called Catholic Revival of the XVI-XVII Centuries (otherwise said Catholic Counter-Reformation), in defeating the formation of an unitarian state in Italy. So that, in the Italian peninsula, the state/nation building process was mainly configured in confessional terms, such as the opposition between the secularization related to the emerging Italian unitary state, on the one hand, and the temporal power of Catholic Church, on the other.

The wave of anti-clerical laws approved by the new Italian Parliament in 1866 (suppression of religious orders, confiscation of church properties, the compulsoriness of civil marriage, the military service for young seminarians) made the relationship between Catholic Church and the new Italian unitary state very difficult, despite the Statuto approved by Carlo Alberto gave to Catholicism the status of national religion. Pius IX refused the Law on Guarantees, which acknowledged the Pope an annual allowance, giving him the full freedom in their territorial dominion, and then rejected any feasible conciliation hypothesis. So the fault line between Catholic Church and the Italian state seemed destined to last long, despite the role of catholic people into the Italian social life was relevant even before the building of the new unitary state. In this context, the mass mobilization, which for the most of the other European was decisive for state/nation building, was strongly limited by the fact that for more than forty years - from the so called *Non expedit* by Pope Pius IX (1868) to Gentiloni Covenant (1912), which marked the entry of Catholic people in the Italian political life - the Catholic Church excluded their followers from the participation in the public life of the country. Despite the exclusion of Catholic people from the Italian political life which characterized this historical period, the activities in the field of charities, as well as within the rural banks, through the “Opera dei Congressi”, rooted in Lombardia, Veneto, and Polesine, were very intensive, thanks above all to the extraordinary work made by the voluntary associations, in defense of peasants and small land owners hit by the economic crisis of the end of the eighteenth century. The echo created by Pope Leo XIII’s Encyclical *Rerum Novarum* (1891) was very important. It condemned the most popular political theories of that period (socialism and liberalism) offering a sort of third way, where workers and employees cooperate into a new model of social cooperation for the common good. In that historical atmosphere, crossed by the contradictions of the end of the XVIII century, took shape the first catholic inspired political movement, the Italian Christian Democrats by Romolo Murri (1901). And less than twenty years after, in 1919, the Popular Party was found-

ed by don Luigi Sturzo, to give catholic people a political representation fully acknowledge by Catholic Church and its hierarchies. Even if it will be the advance of socialist trade unions and political movements, to convince the new Pope, Pius X, at first to endorse the Gentiloni Covenant, that committed Catholic people to support liberal candidates in the legislative election of 1913, and at second to eliminate the *Non Expedit* to counteract the rise of socialists leaving free the mobilization of moderate and conservative voters.

The birth of Popular Party took place after a long gestation. Since the end of 1918 don Sturzo had informed the Vatican Secretariat of State about his intention to create a new political party inspired by the Catholic religion. And the Holy See showed not to oppose resistance, simply asking that in the programme, as well as in the name, of the new party it didn't mention the Catholic Church and its institutions (Tornielli, 2011). The new party was named Popular Party, and in its programme featured many references to family, education and other Catholic values. The advent of Popular Party stated the reintegration of Catholics into the Italian political life, not only for a particularistic defense of religious values and ecclesiastic interests, but mainly on the basis of a programmatic proposal which aimed to settle once and for all the engagement of Catholic people in the new Italian national community (Scoppola, 1967).

It appears clear that, in such a context, the mass mobilization, which for the most of the other European was decisive for state/nation building, was strongly limited by the fact that for more than forty years - from the *Non Expedit* by Pope Pius IX (1868) to Gentiloni Covenant (1912), which marked the entry of Catholic people in the Italian political life - the Catholic Church excludes their followers from the participation in the public life of the country.

In terms of the confessional cleavage (*State/Church*), the division between the *liberal élites* who led the historical process of the unitary state formation and the *ecclesiastic hierarchies* which represented the temporal power of Catholic Church, didn't find any composition at least until the sign of the *Lateranensis Pacts*, in the Early Fascist period (1929), by Benito Mussolini and the Vatican State Segretarian, Card. Pietro Gasparri.

During the previous period (1861-1929) the catholic hierarchies gave an important contribution to keep large layers of Italian population on a critical position about the new unified state. By the way, the linkange between catholic institutions and the Italian society was very strong since the beginning of the new unitary state. The local religious community (*diocesi*) were extremely popular and influent, and they had a spread and a pervasive presence in large part of Italian regions, even before the ecclesiastic hierarchies. Religious orders, voluntary associations, trade unions and business organisations were already active participants of a wide range of experiences and ties, creating cultural attitudes deeply influenced by religion, everyday life expressions of both a religious consciousness and widespread popular beliefs.

Here we find a *mixture* of positive and negative aspects. On the one hand, in positive way: a) the neutralization of the more conflictual aspects of the class struggle; b) the fight against the strongest social and economic inequalities; c) the selective solidarity (*charity*, cfr. §2) towards the weaker social classes. On the other hand, in negative way: d) the widespread normative pressure on individuals and families, especially in small urban centres; e) the strong influence on Italian public opinion and political debate, carried out with alternative chance, through close relationships with politicians of confessional parties, the Christian Democracy during the so-called First Republic, and then the parties borned after the end of DC, mainly with regards to issues as life, family and education.

At a glance, the story of Catholic people in the Italian public life, from *Non Expedit* to Gentiloni Covenant, and then till the *Lateranensis Pacts*, was the origins of the State/Church cleavage, which represents one of the most important fractures for the definition of old and new conflicts in Italian politica system. And that over time has produced, especially in some regions of the country, one of the most important political subculture from which, after World War II, Italian democracy has becoming its institutional consolidation.

Once settled the “Catholic question”, that is the exclusion of Catholic people from the Italian political life, at first in the context of the liberal state, then during the Fascist regime, then into the institutional framework of the Constitutional Italian republic, the Catholic Church, through its ecclesiastic hierarchies, has long been the source of legitimacy of the Catholic presence in Italian politics, especially at the time of Christian Democracy. It was, in particular, this party to be grounded on an external legitimacy from the Catholic hierarchies (Panebianco, 1990).

With the collapse of the Fascistic regime, the history of the relationship between the Catholic Church and the rising new Italian democracy is updated according to the conditions that characterized it twenty years earlier. At the first time, the Holy See didn't seem to think the rebirth of the Catholic party as a priority. In the last years of the war and in the immediate post war period, in fact, two different strategies were comparing within the ecclesiastic hierarchies (Tornielli, 2011). The first one was called “the roman party strategy”, and it was mainly supported by Card. Alfredo Ottaviani (Prefect of the *Sant'Uffizio*), together with the Jesuits of “Civiltà cattolica”. According to this strategy, would have been better to have a plurality of parties, to which Catholic could join and take reference, with none of them having an explicit monopoly of representation. The second one was the strategy of the unitary presence of Catholics in the Italian politics, and it was mainly supported by Card. Montini (Deputy of the *Secretariat of State*), and by the rising Christian democrat leader Alcide De Gasperi. According to this strategy, would have been better to provide a single Catholic party, able to have sufficient autonomy from the ecclesiastic hierarchies. To facilitate the choice of the second strategy, those of the single Catholic party, was particularly the presence in Italy of the strongest Communist Party (PCI) in the Western Europe. So DC was born under the sign of anti-communism, and with the role to represent in Italy the bastion against the advancing of leftist, communist and socialist, political movements.

After the organisational reform made by Fanfani in 1953, DC will be characterized ever more on a rooted and pervasive tissue of social relations, mainly interclassistic, consolidating this party in a pivotal role for the formation of government, and making it a sort of *catch all* party, able to gather support among broad layers of the Italian population. Because of this vocation, DC will become increasingly dependent on the Catholic organizations, and will be forced to give up the party representing the Italian capitalistic bourgeoisie. Despite, on this ground, DC has never encountered serious antagonists, given the inherent weakness of the Italian political forces with a liberal orientation (Martinelli, 1978).

In this way, DC becomes the only party that may rely on the open support of the Catholic Church and its ecclesiastic hierarchies, which lives on systematic relationships with organized interest, through a network of collateral organizations, from agriculture to commerce, from the world of small-medium firms to workers, from cooperation to credit. And in this context, the State/Church cleavage undergoes a partial redefinition, as a new fracture between secularism and confessionalism, at the origin of an opposition on many important issues, characterized by deep ethical implications, which affect the everyday life of individuals, from divorce to abortion, from medical assisted procreation to euthanasia. Here it find out such a differentiation, which opposes DC, as a party based on an external legitimacy by Catholic hierarchies (Panebianco, 1990), to the other secular not-confessional parties of right, left or centre.

The presence of the State of Vatican City on the Italian territory, as well as the pervasive spread of the Catholic religion among different layers of the population, have contributed to increase the importance of the fracture between secularism and confessionalism, which has played a role primarily during some referendums, as those on divorce, abortion and medical assisted procreation, making it clear how the Italian customs are deeply influenced by the Magisterium of the Catholic Church.

So we can see how a certain cleavage, before between State and Church, after between secularism and confessionalism, in various stages of the Italian history, from the building of the unitary state to the Constitutional democracy, among First and Second republic, has drawn some

lines of demarcation, with several outcomes, according over the time to different historical circumstances. So, in the 60s and 70s, there were circumstances that favored a public reason to be constructed on a neutral conception of justice, but in the late 90s, different circumstances favored an idea of natural law based on a sectarian and confessional conception of the good life. And today, after the implosion of Christian Democracy, and the end of the unitary presence of Catholic people in Italian politics, Catholic Church still continue to be an important reference, at least for the part of the electorate and the political class that recognize himself in principles and values of that particular political and cultural tradition that is the democratic and liberal Italian Catholicism (on this point, see §4).

2. Theoretical framework. The dimension of the solidarity concept in the main political traditions

The idea of solidarity has many facets, and several concepts, drawn from philosophy, sociology, economics, law and religion, can be invoked to explain it (Villa 1998): among these concepts are co-operation, loyalty, membership, mutuality, reciprocity, unity, brotherhood and so on. All these concepts relate to the social order and are aimed at improving social co-operation. Especially after the French Revolution, solidarity has been connected with two other principles of democratic societies, namely freedom and equality. In contemporary societies, the market economy relates to freedom (e.g., freedom of employers), while the representative democracy relates to equality (e.g., of citizenship). Social solidarity is, therefore, a very scarce resource and its meaning changes with historical periods, crossing other words of the political vocabulary, such as equality, freedom, justice, self-interest, altruism etc.

The concept of solidarity is not an heritage of the Enlightenment tradition nor of the liberal ideology; its origins, especially in its ‘fraternity version’, can be traced to the Christian-Catholic democratic ideology and to the socialist tradition (Martinelli 1989, 2009). These traditions have been determinant factors in some models of Welfare State, that have been created in many European countries after the Second World War. More recently, the debate on social justice in political and social theory, centred on the alternative accounts of liberalism and communitarianism, has had large implications with respect to solidarity as well. In fact, liberalism traditions underestimates the role of intermediate social organisations, such as classes, collective movements, and political parties (Martinelli 1989). Moreover, it poses the problem of balancing the demands of the individuals and those of the society. In other words, do the social imperatives and sanctions which redirect individual impulses toward the common good leave enough room to the expression of individual rights.

2.1. Solidarity: from tradition to modern society and back again?

While traditional societies exhibit a ‘strong bond’ between individuals, modern ones show a larger solidaristic feeling, that in some cases becomes a universalistic one. This feeling of modern solidarity is aimed to remove inequalities or disadvantages between social groups through the redistribution of social resources. Actual democratic regimes exemplify a model of ‘**contractual solidarity**’, built on the concept of the equality of citizenship, on which empirical and theoretical analyses of welfare systems have been developed. Modern solidarity functions between impersonal and non-related members, whose only common foundation is the sharing of the institution of citizenship. The meaning of solidarity thus parts from concepts such as altruism or gift relationship and becomes more similar to the idea of co-operation.

However, as a result of the transformation of contemporary societies, a different trend in sociological theory has emerged, which tends to carry back the concept of modern solidarity towards a communitarian and particularistic view. The economic difficulties faced by many welfare systems based on the equality of citizenship has led some to develop a different model of solidarity. They suggest to get over the private/public and the market/State dichotomies, and stress the voluntaristic dimension, in which the transactions between the members of society are mutual

and involve families, relative networks, voluntary groups, mutual-help and self-help groups and so on. This is called the model of **societary-citizenship**, because it focuses on relations taking place in the civil society and it is based on activities of both primary (e.g. family) and secondary (voluntary groups) solidarity. The assumption is that, given the inadequacy of the State in managing the social services, it is necessary to stimulate the capacity of self-regulation and the resources of the civil society, which ground joint ventures of market and solidarity (the so-called 'social market').

The solidaristic model thus moves from a statutory solution, stressing the relationship between the State and the citizens, to a 'social-private' or 'social-communitarian' solution, based on voluntary actions, third sector activities, social co-operation and family networks (Zincone 1992, Donati 1993). This perspective proposes a new organisation of social policies and of the relationship between the private and the public. However, the rising rhetoric of the social market risks legitimising privatistic cultures and opportunistic behaviours in relation to public goods, thus weakening the social links and destabilising the entire society (de Leonardis 1998).

We can thus say that the concept of solidarity moves from a pre-modern or traditional society to the modern society, and then partly goes back by incorporating elements of communitarianism disregarded by liberal theories of citizenship. The problem of social citizenship involves some central issues in the analysis of contemporary society. Among these are: the cleavages and boundaries of a society; the definition of which groups are a part of it and which are excluded; the criteria to claim full citizenship; the requisites for the different members of the society to have access to social benefits and services and so on.

The politico-cultural traditions which have characterised the public debate of the last two centuries are the liberal-democratic and the social-democratic. According to the first tradition, constitutional arrangements are the result of a voluntary agreement (the social contract) between individuals who choose freely how to live, according to their desires, needs and rights. This tradition is interested mainly in the protection of individual autonomy and of negative rights; it is critical that individuals should not be interfered with, nor be the object of arbitrary impositions (civil and then political rights). However, if limited to the protection of liberty rights, such a contract will not be able to guarantee the fundamental rights of all members of the society, for some, thanks to their superior natural and social endowments, will condition the contract to their advantage (Rawls 1971). The limits of the liberal-democratic tradition in solving the problems of civil life and public and social order are counterbalanced by the social-democratic tradition which, taking care of the collective outcomes in terms of welfare, endorses the priority of the principles of equal opportunity and social justice over the principle of freedom, and justifies the introduction of social rights.

It could be argued that the two traditions, being complementary, should be able to solve the problem of finding the moral and social principles that generate the *shared values* that make the stability and cohesion of a complex society. Donati (1993) performs a critical analysis of this approach, called *lib-lab*, and a proposal to solve the questions posed by the crisis of political, social and economic systems of regulation based on the state-market complementarity in terms of societary citizenship.

In traditional welfare systems citizens were treated impersonally, having little autonomy in choosing the goods they received; the new welfare implies more participation by the users, who have access to those goods selectively, by an individual choice. The criteria of selectivity involving relevant consequences for the actual solidaristic arrangements go in two opposite directions: on one side, positive selectivity, which selects in order to give more resources, on the other hand negative selectivity, which selects in order to subtract resources. As noted by Ferrera, "we now speak of '*targeting*', that is, of the adoption of a more selective approach in the provision of social services. This option has been at the centre of the debate on the reform of welfare in all countries, but it is interpreted differently in each (or in each family of countries), and finds different obstacles, according to the kind of arrangement now in force" (Ferrera 1998:79-80).

Now, in the light of the ongoing debate concerning the evolution of the welfare systems in Western democracies, we propose to analyse the new challenges emerging from the peculiar area of social policies that is health care in Italy.

3. The roots of solidarity concept in the Italian welfare system

Representing solidarity, along with justice and the protection of individual rights, as a central feature of the basic institutions of society¹ leads to two considerations, with regard to policy making: for one thing, it must be stressed that policy decisions must be the outcome of public discussion between members of a community who share some common feature of a good life, while differing largely with respect to comprehensive ethical visions; this discussion will not be aimed at establishing mere procedural safeguards for the implementation of individual rights, but rather at shaping social practices in the light of a general view of the good life at a political level. Moreover, since the members of the political community will value their common way of life as inherently good, decision-makers will always address the effects that policy decisions are apt to generate for the polity as a matter of fundamental concern. Choices likely to strengthen social ties and reinforce motivations to cultivate political virtues will be encouraged, while those likely to generate social struggle and not to gain wide public acceptance will be postponed until when they can be accepted as the outcome of a collective decision.

3.1. Principles and values

3.1.1. Charity versus solidarity

In Italy the welfare state is based on the *solidarity model*² and we have different traditions as regards the concept of solidarity in the health-care system.

With the Republican Constitution the main object of the democratic state is the defence of the individual. And, even if in the solidarity model the notion of ‘freedom of person’ is given priority, State intervention is necessary in order to support it³. Three articles of our Constitution provide an idea of the principle of solidarity in Italy: article 32 on the right to health, article 38

¹ This balance between justice and solidarity seems in fact to be at the basis of the Italian constitutional approach. Though the general inspiration of the Italian Constitution is straightforwardly ‘**personalistic**’, in that it subordinates the interests of society to the rights of the individuals, it also conceives of individuals inherently as citizens, realizing themselves through participation in the political life. In fact, while acknowledging and granting the inviolable rights of the human being, the Republic requests the accomplishment of “unbreakable duties of political, economic and social solidarity” (art. 2); moreover, while the removal of the economic and social hindrances to the citizens’ freedom and equality is aimed at the full development of the human person, it is also intended to allow “the actual participation of all workers in the nation’s political, economic and social organization” as well (art. 3): in fact, every citizen, according to his possibilities and choices, must carry on an activity “contributing to the material or spiritual progress of society” (art. 4). Within this context, health care is conceived of as an interest of the community, as well as a right of the individual (art. 32); in fact, universal access to health care, behind giving the individual the opportunity to face any hindrance to the pursuit of his life plan, also guarantees to anyone, independently of economic availability, sex, age, physical or intellectual capacities, the opportunity to develop his capacities and talents in the service and for the participation to communal life. This approach is strongly solidaristic in that it presupposes an anthropological view according to which human beings are inherently relational individuals who cannot develop their individualities nor flourish, but in the context of a society or community. Accordingly, it does not conceive of the state’s main function as the protection of the individual’s freedom to realize his life plan from any external interventions, but as the context, which, by guaranteeing the protection of the individual’s basic rights, allows his development and flourishing.

² The *solidarity model* is typical of democratic institutions, in that it acknowledges that every individual has equal dignity and the same rights of citizenship. State intervention has the aim of guaranteeing citizens the implementation of the principles of equality and freedom. The main reason justifying the solidarity model is the existence of large differences in the economic and social situations of the citizens. Only through the welfare services (with the principles of social justice and solidarity) can the State guarantee the social rights of the entire population in a universalistic approach.

³ After the Fascist authoritarian Government, in which the State was interested in citizens’ health as a function of the health of the whole society and even of the human race, the main principles of our Republican Constitution intended to turn upside down the central tenet of fascist doctrine, which subordinated the individuals’ rights and freedom to the interests of the nation. For this doctrine individual health is only one aspect of an individual’s social efficiency.

on the social assistance for people “not in the conditions to self-maintain and not able to work” and article 53, which states that the fiscal system must be based upon a principle of progressivity. With regard to right to health, article 32 of the Republican Constitution (that came into force in 1948) adopted a solidarity model based on the conception of health and the right to health care: this article states that “the Republic protects health as a fundamental *right of the individual and an interest of the collectivity*, and guarantees free care to the needy”. At the end of the first part of article 32 of the Constitution we read that the Republic “(...) guarantees free care to the needy”. During the debate in which the article was approved, many members of the Parliament maintained that this sentence is in contrast with the first part of the article. This controversy on ‘indigence’ reflects two different ways of conceiving social security and the health care system. The first conceives of solidarity as charity to the poor and needy; the second goes in the opposite direction, requesting (expecting) State intervention in order to support citizens’ social rights, according to a universalistic approach (Poletti 1979:13). The Parliamentary debate during the Constituent Assembly in 1947 is paradigmatic of this dichotomy *charity-solidarity* in the field of health care and social care services.

Substantially, one tradition accepts the existence of the needy and believes that the State has a duty to help by guaranteeing them some resources, while the other simply cannot admit the existence of the condition of neediness. This second tradition believes that, in order to bring about an authentic social solidarity, a modern state should remove personal conditions of need, otherwise the people will have to resort to paternalistic and confessional forms of charity. As Merighi, a member of the Parliament at that time, put it: “There is no more charity, now we have social solidarity”.

During the Constitution Assembly in 1947, there was an attempt to universalise the provision of assistance, backed by the coalition between the Catholic and the Socialist–Communist parties; this attempt was, however, thwarted by the economic and cultural conditions of the country, and by the fact that the medical class was very much involved in the creation of the health insurance scheme (Vicarelli 1994:13). From the point of view of both vertical and horizontal solidarity, this was a missed opportunity, as it provided for the extension of health insurance to all workers and the extension of health care to the family of the insured and to pensioners.

In Italy a National Health Service was set up only in 1978. After the enactment of Act 833 in 1978, health protection has been organised in an organic social service, losing every feature of an individualistic, charitable and benevolent enterprise. In fact, before this law, citizens had to provide for their own health care according to their individual resources; contributions were provided only with funds coming from private charity and donations of beneficence coming from the State⁴.

3.1.2. Public solidarity versus private social solidarity

Today’s debate about social solidarity and the relationship between principles and social policies reflects two different ways of thinking. To simplify, we have principles favouring the welfare state (public solidarity) and principles favouring the welfare community and welfare society (private solidarity); in the studies of social policies, we thus distinguish two different approaches about the public policies of social citizenship:

- 1) statutory solution (based on the Marshall citizenship model through civil, political and social rights);
- 2) social-private solution (based on voluntary action, third sector, social co-operation and family networks).

According to Villa (1998:278) “the duties of solidarity can be carried out both through voluntary and free initiatives and through the responsibility of the State and its institutions. In sociological terms we have a public solidarity and a private or free social solidarity”. The first one

⁴ Later, in 1968, Acts n. 132 and n. 431 deprived the hospitals of the legal status of public institutions of assistance and beneficence, ascribing them the status of public bodies or Local Health Authorities. According to Colombo (1977), the origin of the name hospital comes from ‘hospitalis’ and ‘hospitium’, a place where the poor, the passenger, the stranger etc. were received; the transition from the ‘house of the poor’ of that time to the ‘hospital for everybody’ of today reflects the move towards a universalistic concept of social solidarity.

relates to universalistic models in the field of social and health policies; the second to new approaches in the field of social co-operation, voluntary sector, non profit foundations. We deal with the first point, in relation to the public structure and the functioning of the care system in health care and social care services. Here we concentrate on the practice of solidarity in its more or less organised and informal forms.

Private institutions work mostly in the field of assistance and social services, but also in health sector. The role of private social enterprise initiative is in an associative solidarity area, where relationships of informal solidarity have a public value (voluntary action, social co-operation, mutual aid). Donati, in attacking the theory of modernity and the statutory solution about solidarity gives a useful definition of the private social initiatives: “organised systems of actions on the basis of motivations, rules, aims and means of social solidarity, which have the maximum inner managerial autonomy, and can also be structured in the shape of enterprise, whilst being publicly accountable towards the political-administrative system in the general framework of citizenship rights” (Donati 1993:101).

With regard to *voluntary action* (Ascoli 1987; Lazzarini 1998), at present there is a difficult passage from a stage of ‘charitable aid’ to a new form of organisation capable of creative answers to emerging needs and to new social rights. Within the complexity of the voluntary action phenomenon, some studies and research carried out during the 80s show that there is a substantial difference between voluntary action as an activity in the field of assistance and health care, typical of the period from the end of the Second War to the ‘70s and the mid-‘80s (especially in the Catholic area), and voluntary action as a specific and organised activity performed in a social structure. This difference represents the passage from informal groups to legally recognised, non-profit organisations (foundations, social co-operatives etc.). Moreover, according to Ascoli (1987) the general culture of solidarity is made of voluntary reality and organised self-help, and both are a ‘crucial resource’ for the modern welfare system. In addition to the strategy of targeting welfare in a ‘soft’ state towards policies founded on selectivity (Ferrera 1998), another proposal to solve the crisis of the traditional welfare state model and to reform it, is characterised “by the principles of reciprocity and subsidiarity, in which the public sector reorganises its managerial intervention, offering new space for the third sector” (Lazzarini 1998:100).

With regard to *social co-operation*, the third sector and the social co-operative in Italy are widespread on the territory, with the firms that work in the production of services of assistance, health, education and other “economic activities for helping disadvantaged people enter the working and social field” (Rei 1998:129).

With regard to the field of the *family network*, many scholars even talk of a ‘fourth sector’. Saraceno (1998), while maintaining that the Italian family is moving towards an individualistic model, notes that it still has important social functions of solidarity and assistance which should be typical of a welfare system and which, moreover, are not supported by the State. In the health field, the structure of the Italian family is important in the promotion of personal and collective well-being (psycho-physical-social health), and in care, rehabilitation and assistance (Di Nicola, Rossi 1998:69)

In conclusion of this paragraph, we can say that at the beginning of the century and millennium, current differences peculiar to Italy, in the interpretation of the concept of solidarity and of its implications for social policies and practices refer to the historical debate that was the background of the division within the solidarity model sixty years ago and before.

6. Catholic Church’s influence and pressure on the party system after the collapse of Italian political system (the era of “Seconda Repubblica”)

The political transformations of the 1990s change the logic of policy pressure of the Catholic Church. The end of the political unity of Catholics, connected with the disappearance of DC, the confessional party which had been continuously in power since the birth of the new Italian democracy, after the Fascist regime, led the Catholic hierarchies to declare a position of political neutrality. What until then had been a privileged relationship with a confessional party,

however central in the dynamics in the political system of the first phase of Italian republic democracy, change into multiple relationships with a plurality of parties, not necessarily confessional oriented, no one of them characterized by a political centrality. And in this different scenario, the above mentioned neutrality of the Catholic hierarchies in term of party policy and policy pressure, couldn't mean, however, a neutrality of the Church toward Italian political life.

In the 1996 political elections, for the first time CEI (the Italian conference of bishops and archbishops) declared its support for candidates which had hold the defense of the life, the respect of the person, and the promotion of family grounded on the marriage as a religious sacrament (Donovan, 2003). In substantiating this new perspective of action, ecclesiastic hierarchies followed a strategy quite similar to one followed in the early years of XXth Century, before the birth of Popular Party founded by don Luigi Sturzo - when, in absence of a unitary Catholic party, they suggested Catholic electorate to vote for moderate politicians and candidates who had pledged their committment to Catholic values, as family, education, and life (*see* Eptalog).

At the end of 2002, the Congregation for the Doctrine of the Faith (Congregazione per la Dottrina della fede) published a document approved by Pope John Paul II and written by the Prefect Card. Joseph Ratzinger and the Secretary of State Card. Tarcisio Bertone⁵. In that document, the former Holy Office (*ex Sant'Uffizio*) indicated some non-negotiable principles, concerning with: a) the basic right to life, from conception to its natural end (i.e. the defense of life *versus* abortion and euthanasia); b) the protection and the promotion of the family, based on monogamous and heterosexual marriage ruled by religion (i.e. the opposition to homosexual and unmarried couples); c) the freedom to educate their own children according to Catholic values (i.e. the defense of Catholic schools); d) the promotion of person and common good through an economic freedom consistent with the principles of solidarity and subsidiarity (i.e. the enhancement of the social groups as the *meso*-bodies of the society) (*see* again Eptalog). It is clear that the stance of the Catholic Church is opposed to the autonomy claimed by some catholic leader involved in politics, allowing ecclesiastic hierarchies to reiterate a primacy no longer defensible simply through the relationship with one political part.

In January 2006, CEI (the Italian conference of bishops and archbishops) President, Cardinal Camillo Ruini, speaking of the forthcoming political elections, illustrated this new strategy of ecclesiastic hierarchies talking about the intention of Church to maintain a position of neutrality towards the political parties, and - at the same time - calling Catholic electors to make their choice of voting paying attention to the orientation of the political parties on Catholic values, such as the centrality of the family, the respect of life, the defence of private education institutes (mainly the Catholic schools), and so on (Bernini, 2010). And although Ruini avoided referring to any particular party, it was clear that, after the collapse of DC, the Catholic hierarchies were thinking of referring to an indirect partnership agreement with the parties or the coalition giving electoral programmes and proposals more emphatetic toward Catholic values.

At the glance, this declared orientation has led ecclesiastic hierarchies to influence all the party having Catholic politicians or candidates among its ranks, which means many parties, from centre-left to centre-right coalitions, and also from the rising political cartel on the centre of left/right continuum (at first the attempt to build the so-called "Patto per l'Italia", and then, actually, the new attempt to build the Terzo Polo).

Switching from the special relationship with a unitary Catholic party, in a party system characterized by the centrality of DC, to the orientation and the guide of Catholic voters, in a plural and more competitive party system, the policy pressure strategy of the Catholic Church change from the logic of *direct action* towards a single party, to the logic of *indirect action* towards the public opinion with Catholic values orientation. And the ecclesiastic hierarchies ridefine their

⁵ The title of that document was "*Doctrinal Note on Some Questions Regarding the Commitment and the Behaviour of Catholics in Political Life*" (Nota dottrinale su alcune questioni riguardanti l'impegno e il comportamento dei cattolici nella vita politica).

capability of influence the Italian political system refreshing the experience made when the Popular Party by don Sturzo wasn't yet born. So the new horizon of the Catholic Church has become the establishment a new value-oriented hegemonic culture.

Since the beginning of this new strategy, the political fragmentation of the Italian party system, together with the "diaspora" of Catholic electorate in the direction of a multiplicity of Catholic candidates in the ranks of different party lists, on one hand has increased the ecclesiastic hierarchies chance of influence on the choices of the parties, such as on the legislative decision making. And on the other hand, has yielded a new party competition multiplying the spectrum of parties and candidates who are striving to become the best speaker for the ecclesiastic hierarchies to defend and to represent Catholic values.

So, in recent years, many are the examples of political issues and legislative measures which shows the way in which all the coalitions (on centre-right, centre-left and on the centre), through their parliament members, their politicians and, during electoral campaigns, their candidates, from both the government and the oppositions, suffer from the policy pressure of ecclesiastic hierarchies. And this allows the formation of laws and public policies in line with the assessments of the Catholic Church, influencing the policymaking in a way consistent with Catholic values.

If we try to clarify the different political position peculiar to the major parties of the Italian political system, considering also the respective collocation on left/right *continuum*, we find out that the most open endorsement of Catholic values, during the last two decades, has come from centre-right parties, mainly Force Italy (FI) and National Alliance (AN). In AN Charta of Values, published in 2000, the support of the family grounded on religious marriage and the centrality of life becoming from the conception appeared among the core values of the traditional right culture (Tarchi, 2003). In 1994 Berlusconi's political engagement speech, the family was mentioned as "the original unit of every society" and as the core of the welfare programme of Forza Italia (Farrel, 1995; MacCarthy, 1996). Over time, and not without some initial reluctance, even the Northern League (Lega Nord) has aligned itself with the other centre-right parties to the defence of Catholic values. Since 2001, in fact, the Northern League, after many years of anticlerical controversies and strange references to Celtic mythology, has embraced a new rhetoric of Catholic religion as a foundation of a local identity in opposition to extra-communitarian immigration (Formigoni, 2010; Passalacqua, 2009). Moreover, increasingly in recent years, many observers and scholars have pointed to the family as a value around which the different political culture of the parties in the centre-right coalition have been to build a path of programmatic convergence (Diamanti and Lello, 2005).

In a different way, in the centre-left coalition, at first the presence of the Daisy- Democracy and Freedom (DL), and then the birth of Democratic Party, by the merger between the Daisy and the Left Democrats (DS), allows the progressist politicians to maintain open the opportunity window to claim Catholic values as well as centre-right ones. Although with some significant difference: the simultaneous presence of both secular and confessional tendencies, respectively coming from Left Democrats and the Daisy, strongly imposes the need to pursue a difficult mediation from contrasting expectations. So the family, in the PD's Charta of Values, is clearly mentioned as "one of the founding social structures", and for "its concrete conditions, it remains the main beneficiaries of welfare policies and public support". Even if, beyond such common external endorsement, the different political fractions composing the new party diverge on many issues related to the defence of family and life. And in this way, the Democratic Party approach to family, Catholic schools, homosexual marriage, and other ethical issues, relies on contradictory, inefficient and not very intelligible choices.

The ability that the Catholic Church has overall shown to get political decisions consistent with its own values, during the so called Second republic, and when the unitary Catholic party there isn't yet, had made in Italy extremely difficult to affirm public policies inspired to liberal values. The peculiar issues connected to the modern form of liberal society are that its members

live private lives with autonomy of choice, freedom in the style of life, having relationships through the market and acting in order to pursue their personal interest. These values, typical of modernization, are based on individual achievement, functional specificity, affective neutrality, universalism, and collective responsibility (public interest), in term of the pattern variable polarity by Parsons (1967; with Shils, 1951).

5. The “good life” between individual-public choice and ‘lobbies’

5.1. *Eluana Englaro’s Death and the Debate over Living Wills*

In Italy, a public debate about the death of Eluana Englaro was set in motion that eventually extended itself to all of the problems related to living wills. The controversy that developed around these events represents a case of applied public ethics that involved moral problems related to public policy decisions. The debate demonstrates how such (bio)ethical questions have now become priorities on the political agenda. Decision-makers are constantly called upon to decide and intervene in very complex and difficult environments, both at the beginning of life (such as the debate over Law No. 40 in relation to assisted fertilization and that relative to the abortion pill RU-486) and at the end of life. Until only a short time ago, these environments were strictly relegated to an individual, family, or medical dimension. In any case, the moral and political conflict that developed around this event has to do with the concept of pluralism, understood as the co-existence of different values, norms, cultures, and ways of life, despite the frequent conflicts between them. Indeed, the essence of pluralism, the structural element of liberal-democratic societies, is at the foundation of the complex relationship between individual autonomy and collective choices, whose management is one of the difficult tasks that politics and law are called upon to carry out. The ability to reach a balanced result in such a relationship characterizes such societies as political regimes that are in a position to make their own representative institutions function better than others. In this sense, the case of Eluana Englaro, which unfolded between late 2008 and early 2009 after lengthy negotiations between the young woman’s family and different public institutions, upset the conscience of Italians, due to *delicate moral dilemmas* that were very difficult to resolve publicly.

5.1.1. Debate and Party Positions in the Parliamentary Arena

The course of the decision-making process has given rise to reflections about the institutional conflict that transpired, above all that between the government and the president of the Republic, which has few precedents in Italy. There were some who claimed that the institutions were “wounded,” emphasizing that the extreme politicization of the Eluana Englaro story brought to light attitudes, intentions, and behaviors not so far removed from those of a “religious warrior” that were revealed in an indecorous manner by the Italian political class. In the end, the death of Eluana Englaro took everyone by surprise. Prognoses that had forecast a drawn-out agony—fueling the race against time to pass a law in three days—were spectacularly disproved, transforming the tone of the debate in the Senate into a spectacle unworthy of a civilized country

The different political parties expressed extremely divergent positions on the Eluana Englaro case, sometimes even within themselves. The controversy seems to have assumed cross-cutting characteristics with respect to the official positions of the parties and the coalitions. These positions manifested themselves even after the sad end of Eluana Englaro. On the day after her death, for example, Parliament approved a motion about nutrition and hydration presented by a majority group, rejecting two other motions presented, respectively, by the Democratic Party (PD) and Italy of Values (IdV). The procedure leading to the adoption of the DDL on living wills began in the Health and Hygiene Commission of the Senate before making its way to the floor of that chamber, where it waited for the approval of the Chamber of Deputies. This motion, presented by Senator Raffaele Calabrò (PdL, People of Liberty), was intended to affirm

the principle of the *inviolability of human life* while at the same time casting doubt on the notion that personal freedom must represent an absolute value if it does not work toward the common good or the personal good of the patient. In this way, the DDL again made clear the cross-cutting nature of this subject with respect to the existing party system. On the eve of the vote on the living will in the Senate, the former Prime Minister Silvio Berlusconi sent a letter to all the parliamentarians of the PdL in which he underlined the freedom of conscience that the party left its parliamentarians, emphasizing, however, that the text of the law was charged with translating into norms certain fundamental values of European populism. Subsequently, when the vote took place on 26 March 2009, there were many senators who cast their votes differently from the stances taken by their own political groups. The proposed text was approved with 150 votes in favor, 123 against, and 3 abstaining.

In this section, it seems appropriate to present the positions expressed by the various political parties, although these standpoints were variable with respect to the internal dialectics and the individual sensibilities of the leaders and the representatives of the institutions. In particular, the main questions include the following: Should the law prohibit in all cases the discontinuation of artificial hydration and nutrition, regardless of the will of the patient? Should the law put some limit on the decision of the patient, after it has been formulated in his or her living will? How important is the role of doctors and parents, and should they be allowed to interfere with this will? Before reviewing the different positions of the political parties, it is useful to provide some information on how the living will was originally defined in Italy. The National Committee for Bioethics, which had been set up by the prime minister in 1990 and was represented by authoritative scientific personalities on the basis of an inter-disciplinary and pluralistic approach, defined the living will as a document through which a person—in full possession of his or her mental faculties— expresses his or her will, or charges third parties to fulfill his or her will, with regard to the treatments to which he or she would or would not like to be submitted, in the event that, due to the progression of an illness or a sudden trauma, he or she was no longer capable of expressing his or her informed consent or dissent.

According to this definition, there would therefore be two types of living wills: one detailing the “anticipated instructions for treatment” (DAT), the other naming “delegates.” The first contained, in addition, indications about “the treatments or the explicit therapies that a person wants/desires to exclude in the course of an illness and especially in the terminal phase; mentioning treatments that one asks to be applied.” The second gave the person the right to designate a trustworthy person to whom he or she would delegate the therapeutic decisions in his or her place, when he or she was no longer capable of doing so autonomously, due to the aggravation of a sudden pathological condition.

5.1.2. Eluana Englaro’s Death and the Debate over Living Wills

With respect to the Italian political parties, the positions and lines of argument are the following:

- PdL: considers that the DAT should not apply to hydration and nutrition, maintaining that these cannot in any way be equally compared to medical treatments that involve the consumption of pharmaceuticals. This line of argument sees hydration and nutrition as life-sustaining treatments that cannot be denied to anyone and that must be imposed, even in the case of a dissenting DAT, unlike treatments for which the patient is given the ability to refuse. The PdL also holds that, in the case of a living will regarding treatment, the opinion of the doctor must be paramount and that these doctors, while taking into account the wishes of the patient, must not be constrained to execute them. However, this position within the party, which in spring even played a part in the first foundational congress, is heterogeneous, since the party’s political and cultural traditions are very diverse.
- Northern League (LN): requests to introduce into the text of the law the possibility to interrupt forced feeding in the case of the loss of assimilation capacity. The position of the party, which is allied with the PdL and is a decisive part of the present majority, is fairly homogeneous.

- Union of the Center (UdC): is very strongly oriented toward Catholicism and so for ethical reasons is in favor of the text proposed by the PdL, despite being in the opposition.
- IdV: leaves complete freedom of conscience to its parliamentarians, allowing heterogeneous positions to emerge on questions of a bioethical nature. A position contrary to that of the majority is, however, emerging, in the name of liberty and the dignity of humankind.
- PD: maintains a position that, although not completely cohesive internally, is in favor of the freedom of choice of the individual with respect to the right of care. Specifically, the possibility of choice is given even on questions of hydration and nutrition, recognizing the patient's ability to decide (with the assistance of medical expertise) which treatments to undergo. According to this line of argument, hydration and nutrition should always be ensured, except when they are expressly subject to the DAT. As in the case of the PdL, the positions taken by parliamentarians are often conflicting, demonstrating the influence of the different political and cultural traditions that gave rise to the PD. In general, the PD was subject to endogenous divisions that were often penalizing. This was demonstrated, for example, by the friction between the secular majority of the party and its Catholic (or *teo-dem*) minority, which includes some conservative secularists as well. Prior to the primary elections held for the party secretary on 25 October, for example, the three candidates expressed themselves as follows. Dario Franceschini, who was the secretary in office at that moment, contended that the written intention of the patient is but one element of the decision, which should also take into account the opinions of the doctors and of relatives. Pierluigi Bersani, who ultimately won the contest, instead held that the decision should be made "by the doctor and the family on the basis of the intention, where expressed, of the patient." Lastly, Ignazio Marino, who came in third in the primaries, argued that "the law should not put limitations on the intentions of the patient, once they are explicitly formulated in the living will. However, it is desirable that this document also names a trustee, appointed by the patient from among the people with whom he or she has an emotional tie, who is able to interpret these intentions in light of medical innovations." In view of these varying standpoints, it is worth highlighting the positions taken by some of the more prominent members of the major parties who saw fit to highlight distinctions between their personal beliefs and those expressed by their group.

The cross-cutting nature of the question with respect to the parties and the difficulty that each of them has had in reaching unambiguous positions is therefore not surprising. Some parliamentarians even spoke of a bipartisan "third way" on the matter of the end of life, being willing to find a compromise, albeit with difficulty, between the values of self-determination and the dignity of life, on the one side, and those of the sanctity of life and its consequent inviolability, on the other.

The attitude of the president of the Chamber of Deputies, Gianfranco Fini, is illustrative of the search for respectful reconciliation between the majority and the opposition. Despite being the co-founder of the PdL, Fini argued that it is correct to allow the person, the family, and the doctor to decide on the question of the end of life, also stressing that it is up to Parliament to pass the laws. Fini's divergence with regard to the dominant sentiments of the majority (and within the PdL) on controversial issues and the so-called new rights are innumerable, starting with his "yes" to the referendum on assisted reproduction, which failed in 2005, to the more recent (and more timid) openings as regards unmarried couples, and, most recently, to the invitation directed at the Chamber of Deputies not to approve legislation that is expressive of religious beliefs—first and foremost, the living will. Fini seems to want to distance the PdL from its confessional tendencies and bring it closer, instead, to the liberal-democratic progressive strand of European populism that has embraced modernity and rejected a more defensive conservatism. Following the strategy of the president of the Chamber of Deputies, the PdL could widen its own support and turnout by engaging with issues (bioethics, unmarried couples, living wills, and euthanasia) that have traditionally been the preserve of progressive forces on the left. Various parliamentarians have spoken against Fini's recent positions, underlining that he should not express his personal opinion while invested with the institutional role of president of the Chamber of Deputies.

The DDL approved in the Senate passed to the Chamber of Deputies' Commission of Social Affairs, which began its debate on the living will on 8 July 2009 and concluded it at the begin-

ning of October 2009. The rapporteur for the measure, the Domenico Di Virgilio (PdL), always maintained that they started with the DDL that had been approved in the Senate. Nevertheless, after hearing experts and associations, 12 other DDLs on the subject were presented in addition to the original one. Di Virgilio also stated that the law should be able to say “no to euthanasia, no to the abandonment of treatment, no to aggressive treatment, and that the right of self-determination must always leave open a window of opportunity to review that which was decided earlier, so as not to become a tyrannical compulsion that acts against the interests of that person.” Moreover, despite optimism about a small window of opportunity for revision, hoped for by Di Virgilio, there were more than 2,600 amendments to the text on the living will presented in the Commission of Social Affairs, including 2,400 by the Radicals, 103 by the PD, 57 by the IdV, and 5 by the UdC.

Will a hard law prevail, such as that coming out of the Senate? Or will it be a soft law, based on general principles that permit a case-by-case determination, as was emerging in the Chamber of Deputies? If the hard law of the Senate prevails, the civil battle brought forward by Beppino Englaro could lead to an outcome that would be the opposite of what was expected. Instead of resulting in a law that affirms the right to self-determination, although tempered, a restrictive regulation of that same principle of individual freedom would be obtained. This would have a paradoxical effect in that the Englaro case, having brought to light an extreme situation, would end with the reduction of the margins of discretion. This would restrict freedom in the jurisprudential sense, although not in the abstract sense.

In general, we can say that, politics—up to this point and irrespective of the factions—has not been able to provide a calm and balanced regulatory certainty that is capable of keeping the individual safe from ideological conflicts and, perhaps, from the hidden and sometimes hypocritical gray areas where judicial discretion holds sway on this side of the law.

5.1.3. Public Opinion and Political Choices

For many years, Eluana Englaro’s vegetative state was of little or no interest to the public or as a political issue. Especially in politics, her suspended death, indefinitely deferred, did not supply a motive that was strong enough to invoke the duty to decide on the matter with balance, conviction, and responsibility. What the Parliament (and all of the other participants who contributed to the public debate on this issue) now demands to do with the living will is to insert itself into this intimate, and extremely subjective, sphere of private life. The DDL approved in the Senate foresees that the freedom of choice concerning medical treatment is restricted to the issue of taking pharmaceuticals and does not extend to measures that sustain vital functions such as hydration and nutrition. However, a 2009 poll showed that 68 percent of Italians would like full freedom of choice, including the possibility of stopping hydration and nutrition.²⁰ From this survey, taken not long after Eluana Englaro’s death, it emerged that the population today seems much more informed on the issue compared to the past—even the recent past. Respondents held that the legislature should effectively regulate the environment of the end of life. They did not, however, agree with the outcomes that the Senate law would entail if it were approved. The sample included a strong Catholic component, within which the prevalent position was nonetheless in favor of free choice. Two surveys were taken earlier, in February 2009, at the time when the debate over Eluana Englaro was raging.²¹ The results showed that 47 percent of *Corriere della Sera* respondents and 61 percent of *La Repubblica* respondents sided in favor of the cessation of treatment. These two apparently different results find an explanation in the slightly different wording of the question. Indeed, the gap is motivated by the fact that, in one survey, the respondents were asked if they were in favor of or against the maintenance of feeding and nutrition for Eluana Englaro and, in the other, if they were in favor of or against *forced* feeding and nutrition. The emphasis placed on the coercive nature of the medical treatment makes the results vary significantly, demonstrating that, while they are not opposed to the termination of treatment, Italians demand the right to decide freely on such a sensitive issue. The results of a poll published on 3 October 2009 indicate that approximately 66 percent of Italians know what a living will is (for college graduates, the figure rises to 92 percent). In the case of serious illness without hope of recovery and with the patient’s loss of consciousness, 51

percent believe that it is up to each individual to give preventative instructions concerning his or her own care; 31 percent think instead that the decision should be made by the closest relative; while 13 percent delegate personal responsibility to the doctor. It is interesting to note that an important variable in the formation of these opinions does not appear to be religious faith or geographic location but rather the level of education. Against these majority positions in public opinion is the *Catholic Church*, which does not show any doubt whatsoever about the necessity to “defend life” in whatever form and in whatever condition, denying the possibility of free choice to anyone. It should be pointed out that while the influence of this actor is decisively relevant among parliamentarians, many practicing Catholics take a markedly different position, “lapsing,” as it were. There are also cases in which Catholics believe in following the dictates of their religion by accepting the natural course of events, without the help of medicine. In any case, the Italian Episcopal Confederation (CEI) denied that the DAT imposes moral principles or behaviors on the individual. At the same time, the CEI retains the conception of the right to life as the duty to continue to live. The position of doctors is less rigid than that of the Church and Parliament. The president of the *National Federation for the Orders of Doctors and Dentists (FNOMCEO)* stressed that the principles of the modern doctor-patient relationship as a therapeutic alliance were strengthened in the deontological code approved in 2006. In his view, such an alliance should be guided by an instrumental right that sets out the boundaries of choices—or rather, the rejection of euthanasia, of therapeutic abandonment, and of aggressive treatment—under a legal framework illuminated by a strong ethic of the value of life and of health. A conference organized by FNOMCEO, held in Terni on 15 June 2009, was titled “Anticipated Declarations of Wishes.” This conference involved not only doctors, but also jurists, politicians, scientists, communications experts, and representatives of civil society. Through a frank engagement with the issue, they arrived at a final declaration (also intended as a warning) that “one cannot legislate on bioethical issues, leaving outside the door the contribution of the doctors, nor ignoring or downplaying the expectations of the patients and the families.”

5.2. *Bioethical Issues and Party Systems: A New Fracture*

The stories of Eluana Englaro and the living will have made it clear that certain questions tied to bioethics are cross-cutting with respect to the present party system. Further evidence can be found in the letter sent to Berlusconi by 20 PdL parliamentarians in which they ask to revise the text approved by the Senate in order to avoid a law that presumes to regulate everything in certain areas of the lives of the citizenry— areas that, in the words of the parliamentarians, politics should keep itself out of. This is a position that is, on the whole, very similar to that expressed by some commentators.²⁵ The supporters of the law (in the wording in which it left the Senate) point out that the necessity to regulate even this area of life came about due to the excessive discretion that the magistrates exercised in their interpretation of the intent of the legislature. The supporters of the law grounded their arguments in the need to ensure that the issue does not fall into the hands of the judicial powers. Defections with respect to the lines of argument dictated by the secretaries of the various parties were glimpsed earlier in the vote in the Senate and accentuated later in the Chamber of Deputies. Meanwhile, tensions emerged that highlighted the internal dissension among the parties on this matter. Together, these developments suggest the existence of a fracture, a cleavage, that cuts across the present party boundaries and that involves not only the living will but also the whole gamut of (bio)ethical questions. The hypothesis being advanced is that this fracture has been evident, with a certain intensity and clarity, in precise moments of the country’s political life. Let us think about the events related to the referendum on assisted fertilization and to the issues surrounding the end of life (one thinks of the Welby case) and the termination of pregnancy. During periods of heightened public awareness, matters such as these are placed on the political agenda, and, when this happens, they seem to have the ability to render the boundaries of the various parties highly permeable with respect to the attitudes and strategies to adopt. This makes it very difficult for the parties to find a coherent position within themselves. There are those who leave their members free to vote as they wish, and there are those who struggle for a compromise, which inevitably dissatisfies a greater or lesser number of party members.

In any case, this fracture produces a political split between those who believe that politics should not interfere with individual choices on these issues and those who hold that it is opportune—indeed, essential—for politics to occupy itself with these matters. In fact, the case of Eluana Englaro and the debate relative to the living will demonstrate that Italy is faced with the problem of establishing who has the authority of ethical assertions relating to public policy. The issue is whether a pluralistic society should leave these decisions to the authority of those who claim to know what constitutes a morally good life, or to the majority of individuals through their elected representatives in Parliament, or even to individual choice. In a liberal society, individuals enjoy inalienable rights, inviolable by any authority, which are characterized by a moral status that the authority itself must respect—precisely because the state or moral authority is limited in a strong sense by the existence of these rights. No act of intercession, therefore, can legitimately be taken against an autonomous individual, unless he or she gives the authorization to interfere in what is normally called his or her privacy.

Two paradigmatic concepts emerge within the (bio)ethical field from this dichotomy of freedom versus authority: first, a conception of autonomy understood as the ability to think about oneself and others as individuals who require consideration and respect, and, second, a conception of beneficence as expressed in a moral interventionism that is intent on ensuring the good of people and sentient beings in general. Legislators must exercise critical reflection through the dialogue (or conflict) between these two paradigms in view of the new (bio)ethical challenges. For now, the country is split, with the political factions in part reshuffling between secular and religious sensibilities.

In conclusion, unlike many other Western countries, Italy has set itself somewhat late on the path of recognizing the legal value of the living will and, with much difficulty, is trying to reach a compromise.

The story of Eluana Englaro has inevitably left a mark, pushing away a reasonable solution for the present.

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